



**United States Government**  
**NATIONAL LABOR RELATIONS BOARD**  
**REGION 16**  
**Room 8A24, Federal Office Building**  
**819 Taylor Street**  
**Fort Worth, Texas 76102-6178**  
**Telephone: (817) 978-2921**  
**Agency Web Site: [www.nlrb.gov](http://www.nlrb.gov)**

February 26, 2004

Mr. Bob Jones  
2800 Fairway Drive  
Fort Worth, TX 76119

Re: Southern Mail Service, et al  
Case 16-RD-1494

Dear Mr. Jones:

The above-captioned case, petitioning for decertification of representative under Section 9(c) of the National Labor Relations Act, has been carefully investigated and considered. As a result of the investigation, it appears that further proceedings are not warranted at this time.

The investigation established that a causal relationship exists between several unremedied violations of the National Labor Relations Act by the Employer, Southern Mail Service, et al., and the employee disaffection that formed the basis for the election petition referenced above. Moreover, on March 6, 2002, Administrative Law Judge Pargen Robertson issued his recommended order and conclusions of law that the Employer violated the National Labor Relations Act on several occasions during 2000 and 2001. JD(ATL)-12-02.

Specifically, the Judge found that the Employer unlawfully threatened its employees because of their protected union activity with the loss of their employment; closure of the business, loss of pay, and transfer to lower paying jobs outside the bargaining Unit. The Judge also found the Employer denied an employee union representation at a disciplinary meeting. Further, the Judge found that the Employer unlawfully discharged employees John Pinkston, Bobby Marks, Howard Cranford and Clyde Evans because of their protected union activity.

The Judge also found that the Employer unlawfully transferred employees Frank Cruz and Richard Paiz to lower paying routes, reduced employee Julio Gomez's route by one day, and warned and suspended employee Fern Clark because each of these employees engaged in protected union activity. Additionally, the Judge found the Employer unlawfully unilaterally changed the hours and routes of the Dallas/Denver run, unilaterally transferred drivers to the extra-board, unilaterally laid off Springfield drivers, and failed and refused to bargain with the Union concerning the changes in its Dallas to Denver run. The Judge found that the Employer unlawfully unilaterally altered the hours and route of the Nuevo

Laredo run, failed and refused to furnish information requested by the Union, unilaterally altered its policy regarding drivers correcting their timecards and DOT logs, and unilaterally altered its disciplinary policy and drug testing practices.

The nature and scope of the violations described above, including “hallmark” violations occurring over a period of several months at a number of the Employer’s facilities, are the type of violations that the Board has consistently found to be highly coercive, have a lasting effect on employees, and have a strong tendency to cause employee disaffection with their exclusive bargaining representative. ***Overnite Transportation Company***, 333 NLRB No. 166 (2001).

The passage of time has not dissipated the coercive effects of the Employer’s misconduct because the Employer has not remedied its misconduct. On March 6, 2002 the Judge issued his recommended Order that the Employer cease and desist its unlawful activities and take certain affirmative action to remedy its unlawful conduct including the posting of a Notice to Employees and offering full and immediate reinstatement and payment to each harmed employee to make them whole for the loss of wages and benefits they suffered as a result of the Employer’s unlawful conduct. To the present date, the Employer has not performed any of the affirmative acts ordered by the Judge. Thus, the coercive effect of the Employer’s numerous and serious unfair labor practices has not dissipated. ***Id.***

The foregoing establishes that a causal relationship exists between the Employer’s unremedied unfair labor practices and the employee disaffection underlying the petition in this case. Accordingly, I am dismissing the petition in this matter. The petition is subject to a request for reinstatement by the petitioner after final disposition of the unfair labor practice case. We will advise you of the final disposition of the unfair labor practice case so that you may apply to reinstate the petition if you so desire. Any application for reinstatement will be denied unless the unfair labor practices, which caused the petition to be dismissed, are ultimately found to be without merit.

A review of this action may be obtained by filing a request with the National Labor Relations Board in Washington, D.C. See attached Form NLRB-4916 as to instructions for filing such request for review.

Sincerely,

Curtis A. Wells  
Regional Director

cc: Southern Mail Service, et al.  
Attn: Mr. Jim Riley  
1921 W. Commerce  
Dallas, TX 75208

James L. Matte, Attorney  
1170 Peachtree Street, N.E., Suite 1200  
Atlanta, GA 30309

Ms. Elaine Henderson, Organizer  
American Postal Workers Union  
2010 Postal Way  
Dallas, TX 75212

Anton Hajjar, Attorney  
1300 L Street, N.W., Suite 1200  
Washington, D.C. 20005-4126

UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD

**INSTRUCTIONS FOR FILING REQUEST FOR REVIEW OF  
ADMINISTRATIVE DISMISSAL OF REPRESENTATION PETITION**

Pursuant to the National Labor Relations Board Rules and Regulations, Series 8, as amended, you may obtain a review of this action by filing a request therefor with the National Labor Relations Board, addressed to the Executive Secretary, National Labor Relations Board, 1099 14<sup>th</sup> Street, N.W., Washington, D.C. 20570. A copy of such request for review must be served on the Regional Director and each of the other parties to the proceeding. This request for review must contain a complete statement setting forth the facts and reasons upon which it is based. The request for review (*eight copies*) must be received by the Executive Secretary of the Board in Washington, D.C., by the close of business on **March 11, 2004**. Upon good cause shown, however, the Board may grant special permission for a longer period within which to file. The request for extension of time should be submitted to the Executive Secretary of the Board in Washington, D.C., and a copy of any such request for extension of time should be submitted to the Regional Director, and to each of the other parties to this proceeding.

The request for review and any request for extension of time for filing must include a statement that a copy has been served on the Regional Director and on each of the other parties to this proceeding, and a **copy must be served** in the same or faster manner as that utilized in filing the request with the Board. When filing with the Board is accomplished by personal service, however, the other parties shall be promptly notified of such action by telephone, followed by service of a copy by mail or telegraph.